



## COMMISSION TO ELIMINATE CHILD ABUSE AND NEGLECT FATALITIES

### TELECONFERENCE MINUTES

February 15, 2016, 4:00-8:00 p.m., EST

**Commissioners Attending via Telephone:** Chairman David Sanders, Amy Ayoub, the Hon. Bud Cramer, Theresa Covington, Susan Dreyfus, Dr. Wade Horn, the Hon. Patricia Martin, Michael Petit, Jennifer Rodriguez, Dr. David Rubin, and Dr. Cassie Statuto Bevan

**Designated Federal Officer:** Amy Templeman, acting executive director, attended the meeting.

**Conduct of the Meeting:** In accordance with the provisions of Public Law 92-463, the Commission to Eliminate Child Abuse and Neglect Fatalities held a teleconference meeting that was open to the public on February 15, 2016, from 4:00 p.m. to 8:00 p.m., EST. The purpose of the meeting was to deliberate on the content of the Commission's final report.

#### Opening Remarks

Chairman Sanders opened the meeting by discussing the agenda. He noted that there would be discussion of chapter 2 (including the surge<sup>1</sup>), as well as the recommendations in chapter 7 and the voting process. He stated that the reason for beginning the meeting with chapter 2 was that Commissioner Bevan's announcement of yesterday that she could not support the report in its current state led to a discussion of what changes would be necessary to garner her support. Thus, there will be a discussion of the current situation of siloed funding in child welfare and on the topic of using what we know and what we don't know to reduce child maltreatment fatalities.

#### Chapter 2

In light of his discussion with Commissioner Bevan, Chairman Sanders proposed a new recommendation 2.1, which he and Commissioner Bevan had developed:

"Federally funded research and development centers (FFDRCs) have been created by the federal government to address problems of considerable complexity and provide innovative and cost-effective solutions.

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<sup>1</sup> The "surge" refers to a recommendation that evolved to mean a requirement for states to review child maltreatment fatalities from past years, identify characteristics associated with those fatalities, and use that information to identify children currently at high risk so that assessments could be made of their situations and safety decisions could be reevaluated.

- (1) Use the federally funded research and development centers (FFRDCs) to develop a methodology that has states reviewing their child deaths from abuse and neglect over the past 5 years in children 0 to 5. This would take no more than 90 days. The purpose of the review is to determine the circumstances surrounding these deaths and the services offered and see what went wrong. The outcome would detail a new path for screening to services to placement, etc. (estimate this would cost \$60 million, which could come out of child protection).
  - (2) At the same time CPS/multidisciplinary/law enforcement would be directed to investigate when a report is made of abuse for this age, or if the infant is identified in the hospital as drug exposed, or if an infant is abandoned or comes into ER or comes into foster care.
  - (3) Pay for the investigation and services out of current investigation and service money—IV-B, IV-E, VOCA. There are more funding streams, but no new money.
  - (4) Prioritize ages 0 to 5 in Hatch-Wyden, which would open up IV-E for one year for this age group for services.
  - (5) Call for a new set of cost-neutral waivers for 0-5 deaths.
- Delete the rest of the recommendations in this section.”

Chairman Sanders then invited the other Commissioners to comment, and they offered the following:

- Changing the Hatch-Wyden Act could cost more money.
- It would be a disservice to the children in danger to propose recommendations without proposing new money that is needed for services, training, and more.
- This new proposal is very last-minute, and it’s difficult for Commissioners to respond to such a large change at this point.
- Disagreements among Commissioners about funding could be handled by stating the variety of opinions in the report.
- The actions proposed in the new 2.1 could be implemented, but there also needs to be new money.
- Folding CAPTA into IV-E has some potential, as do some of the other funding suggestions in the revised 2.1.

Chairman Sanders noted that there was no consensus on Recommendation 2.1, so he suggested that they move on to discuss the rest of Chapter 2 and then return to 2.1. Commissioners had the following comments about the remainder of Chapter 2:

- The surge should not be the lead recommendation in the report.
- It was thought that the surge recommendation would be a mechanism for driving reform by connecting the review of the cases and the learning from the reviews to fundamental reform of the child welfare system as a whole. But the report may not have achieved that.
- As it reads now, the surge does not drive the other recommendations in the report.

- The surge should not be called a “lead” recommendation; remove the word “lead.”
- The report needs to be easily readable; right now it is too long and ponderous, and there is some redundancy.
- The writing needs to better frame the recommendation and the whole report.
- There was a proposal to delete the phrase regarding due process in Recommendation 2.1f (“If removal is determined to be necessary, parents will be given a due process hearing before the removal occurs”), because states already mandate due process for parents when children are removed. A majority of Commissioners voted in favor of removing the phrase.
- Several Commissioners agreed to remove phrasing in 2.1a that would have allowed states to opt out of the Child and Family Services Reviews (CFSRs).
- Commissioners agreed that the paragraph in 2.1a is redundant to the paragraph of 2.1.
- Commissioners agreed that the wording under 2.1h (regarding HHS establishing an FFRDC) should go under the Office of Child Safety.
- There are at least three different views on funding for the recommendations:
  - One group thinks there should be an immediate deep infusion of a \$1 billion increase to CAPTA, and Congress should incentivize flexible funding.
  - A second group acknowledges that more funding is needed, but further analysis is needed to determine that number.
  - A third group thinks change could be accomplished with reinvestment of current dollars and greater flexibility.
- A proposal was made to let Commissioners self-identify into each of the three groups of opinions related to funding. The Commissioners in each group would then finalize the wording of their funding proposals.
- Language in the report that suggests allocating \$786 million toward investigations implies that investigations are worthy of the majority of the proposed \$1 billion increase and are more important than services.
- Quality investigations are the key in terms of not overreaching or underreaching with a family, and what flows from those investigations is the quality of decision-making about what’s necessary to help the child be safe.

## Chapter 7

Chairman Sanders moved the discussion to focus on the recommendations in chapter 7, the chapter on disproportionality.

On the 7.1 recommendations (Screening improvement and bias-reducing initiative), the Commissioners offered the following comments:

- Mandating structured decision-making in order to remove caseworker bias also has the potential to remove the caseworker’s discretion and critical judgment to make individual decisions.
- There was a proposal to change “Congress” to “the administration” in each recommendation. This was approved.

- There was a proposal to change “should mandate” to “should provide guidance around best practice” and “incorporate into the CFSRs.”
- Even structured decision-making has the potential in be biased.
- The introductory text that talks about “a systematic scheme” should be changed to “may be due to inherent biases.” This change was approved.

There was no move to delete or amend any of the 7.2 recommendations (Interdisciplinary and cross-sector community-based intervention initiatives and research).

Chairman Sanders asked about the 7.3 recommendations (A 21st-century approach to child protection decision-making). The Commissioners agreed to change the targeted audience from “Congress” to “the administration” in each one.

In discussing the 7.4 recommendations (War on Poverty—Family preservation court and/or intact family court), the Commissioners generally were not in favor of the language around the war on poverty, stating that it was beyond the scope of the report. Also, the 7.4 recommendations did not reflect any of the testimony heard by the Commission. Chairman Sanders reminded the Commission that he had proposed during the February 14 meeting that the disproportionality chapter include only two basic recommendations: the place-based intact family court pilot project and ensuring quality services for all children, which would fall under HHS. He recommended the deletion of all recommendations not related directly to reducing child maltreatment fatalities. This was supported by a majority of Commissioners.

There was a proposal to delete all of the recommendations under 7.5 (observation, environment, and education for fatality prevention), and this was approved by a majority.

### **Miscellaneous Recommendations**

Chairman Sanders then moved on to other areas of discussion, such as the following:

- There was a discussion of Immediate Recommendation 3, Accountability of Other Providers, and the relevance of title V funding for this.
- Commissioners discussed Immediate Recommendation Number 5, Reviewing Life-Threatening Injuries, and how federal policy would incentivize states to do this. Wyoming and Oklahoma are examples.
- Commissioners did not agree on whether Chapter 5 focuses enough on CPS. One argument favored more focus on early prevention and support and cross-systems collaboration. Other Commissioners commented that the chapter does not include enough recommendations for CPS practice and management.
- The pros and cons of continuing with IV-E waivers were discussed. One argument is that these waivers provided necessary funding flexibility to states. Another argument is that, once better practices have been established, the laws should be changed so that states do not have to depend on waivers. The reauthorization of waiver authority was proposed, and several Commissioners indicated their approval.
- Short shrift is given to cross-system collaboration in the report, such as what is being done in Oregon, and that section of the report should be rewritten and moved up earlier in the report. There was no opposition to this proposal.

- The Commissioners revisited the phrasing around due process in chapter 2, Recommendation 2.1f. It was decided that, rather than deleting the sentence about parents receiving due process, the sentence would be changed to say, “All existing due process procedures, both state and federal, would remain in effect.”
- In Recommendation 3.3e, regarding confidentiality of findings from reviews of child maltreatment deaths, it was proposed that the language be expanded to include children not known to CPS (as well as children known to CPS). This recommendation is generally a restatement of what is already in CAPTA.

### Chapter 3

The Commission moved on to discuss all of the recommendations in chapter 3. There was a proposal to add to 3.1a (Create an Office of Child Safety within HHS). The enhanced recommendation would add a position on the White House Domestic Policy Council to advise and coordinate on children and family issues, including child maltreatment fatalities, and work with the Office of Child Safety. There was general agreement on this proposal.

It also was decided that, rather than proposing a new Office of Child Safety, the Children’s Bureau should be elevated in position to report directly to the Secretary of HHS, and the newly elevated Children’s Bureau should have a number of new responsibilities and new authority. In addition, the administration should consider exploring the possibility of merging the Maternal and Child Health Bureau back into the Children’s Bureau. This latter recommendation was not universally favored by Commissioners. One argument in favor of moving MCH was that it boosted the public health approach. One argument against was that the recommendation did not directly relate to reducing child maltreatment fatalities. The recommendation was approved, although it was not unanimous. Elevating the Children’s Bureau and exploring the possibility of merging MCH were to be treated as two separate recommendations.

The Commissioners had no changes for the 3.2 recommendations (Consolidate state plans to eliminate child abuse and neglect fatalities).

Regarding the 3.3 recommendations (Strengthen accountability measures to protect children from child abuse and neglect fatalities), Commissioners decided to delete 3.3c as worded (Commission a study by GAO of state safe haven laws to better understand their effectiveness) and substitute language that extends safe havens to children up to 1 year of age. This was approved, although it was not unanimous.

There was no change for 3.4 (Hold joint congressional hearings on child safety).

### Chapter 4

Chairman Sanders moved the discussion to chapter 4. There were no comments or changes to Recommendation 4.1 (Enhance the ability of national and local systems to share data).

Under 4.2 (Improve collection of data about child abuse and neglect fatalities), there was a proposal to slightly change the language in 4.2a to “design and validate the classification

systems for uniform definitions” of child abuse and neglect fatalities and life-threatening injuries. There was no objection to this change.

For Recommendation 4.3 (Fatality reviews and life-threatening injury reviews should be conducted using the same process and under the same authority within all states), Commissioners approved deleting the phrase “under the same authority.” Also, a recommendation will be added related to requiring the sharing of child welfare information between the DOD and states and local child protection agencies.

## Chapter 5

Under Recommendation 5.1 (Ensure access to high-quality prevention and earlier intervention services and supports for children and families at risk), Commissioner Rubin offered to rework the language for 5.1a and 5.1b, and that offer was accepted:

- 5.1a Expand Medicaid coverage for home visiting services for families most at risk of child abuse and neglect fatalities.
- 5.1b Allow Medicaid services to be provided to noneligible parents, if they are for the direct benefit of the eligible child, under the Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) benefit.

Commissioners had no changes or edits for any recommendation or subrecommendation of 5.2, 5.3, or 5.4:

- 5.2 Leverage opportunities across multiple systems to improve the identification of children and families at earliest signs of risk.
- 5.3 Strengthen the ability of CPS agencies to protect children most at risk of harm.
- 5.4 Strengthen cross-system accountability.

## Voting and Approval Processes

Chairman Sanders explained the next steps for the Commission. Now that Commissioners have voted on all of the recommendations, staff will put together a final draft report. Commissioners will vote via email to Chairman Sanders on the final document. Commissioner Bevan reiterated her decision to not approve the report. Chairman Sanders noted that minority reports could be submitted, as could individual letters from Commissioners, and those would be included in the report.

The teleconference adjourned at 8:27 p.m.

I hereby certify that, to the best of my knowledge, the foregoing minutes are accurate and complete.



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David Sanders, Chairman, Commission to Eliminate Child Abuse and Neglect Fatalities  
3/14/2016